

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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VIRTUAL MERCHANT, INC.,

Plaintiff,

v.

**ORDER**  
04-Misc.Civ.-47S

WILLIAM LONG, *individually and d/b/a* Internet  
Media Solutions, and DOES 1 through 24  
inclusive,

Defendants.

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1. On November 23, 2004, Plaintiff filed a Motion for an Order Requiring the Appearance of Defendant William Long for a Judgment Debtor Exam and to Produce Documents.

2. On January 27, 2005, this Court directed Plaintiff to serve a copy of its motion papers on Defendant. Moreover, this Court directed Defendant to respond to Plaintiff's motion on or before February 25, 2005. This Court subsequently extended Defendant's time to respond through March 25, 2005. Defendant did not file a response.

3. On April 4, 2005, Plaintiff filed a Notice indicating that Defendant consented to the granting of its motion. Specifically, Plaintiff indicated that "counsel for Plaintiff received a phone call from Mark Carney, Esq., who purported to represent Defendant Long indicating that he did not intend to file an opposition and was consenting to the relief requested." (Plaintiff's Notice, p. 2.)

4. On April 14, 2005, because Defendant's representation appeared unclear, this Court filed an Order directing Defendant's attorney to file a notice confirming that he

represents Defendant and that Defendant consents to the granting of Plaintiff's motion. Nothing has been filed by either Defendant or his attorney. Based on Plaintiff's counsel's previous representation that Defendant consents to appearing for a judgment debtor exam and the fact that Defendant has not filed any opposition to Plaintiff's motion, this Court will grant the relief requested.

IT HEREBY IS ORDERED, that Plaintiff's Motion for an Order Requiring the Appearance of Defendant William Long for a Judgment Debtor Exam and to Produce Documents (Docket No. 7) is GRANTED.

FURTHER, that Defendant William Long is directed to appear at a mutually agreeable location for a Judgment Debtor Exam to be conducted by Plaintiff's counsel on a mutually convenient date and time on or before Thursday, June 30, 2005.

FURTHER, that Defendant William Long is directed to produce documents and things as identified in Exhibit 1 attached hereto.

SO ORDERED.

Dated: May 10, 2005  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge

## EXHIBIT 1

As used herein, unless otherwise indicated, the following definitions apply to these requests for documents:

1. **“JUDGMENT DEBTOR”** means William Long, the defendant in the action entitled Virtual Merchant, Inc. v. Willam Long et al, USDC Case No. 04-MC-47.

2. The terms **“WRITINGS”** or **“DOCUMENTS”** as used herein means handwriting, typewriting, printing, photostating, photographing, electronic symbols and every other means of recording upon any tangible thing including, without limitation computers, backup computer tapes and file servers, any form of communication or representation, including letters, words, pictures, sounds, symbolisms or combinations thereof. The terms include any kind of written, type written, graphics, printed or reproduced material whatsoever, including, but not limited to, agreements, contracts, records, notes memoranda, minutes, reports, accounting books, time slips, logs, production schedules, work schedules, progress schedules, inter office communication, invoices, ledgers, financial journals, vouchers, bank statements, canceled checks, negotiable instruments, canceled negotiable instruments, computer printouts, telegrams, cablegrams, telex printouts, personal diaries or journals, plans, drawings, illustrations, surveys, maps, diagrams, studies, photographs, mechanical, electronic or other recordings or transcriptions thereof, letters, papers, books, affidavits, declaration, witness statements, deposition transcriptions and transcriptions of face-to-face or other oral communications whereon or whereby information of any kind may be reproduced or recorded, whether in the original or copy, and any drafts of the aforementioned items.

3. **“COMPUTERIZED INFORMATION”** shall refer to all data or information kept on any and all computers, hard drives, discs, network servers, servers, file servers, CD-Roms, compact discs, floppy discs, disc drives, or related equipment or computer-related media used by **JUDGMENT DEBTOR** or Internet Media Solutions. for the storage, transfer, communications, sending, receiving or otherwise accessing of all electronic information, databases, correspondence, electronic mail, and data, including, but not limited to data relating to lists, customer lists, leases, profits, costs, commissions, customer information, financing information and customer list summaries for purchases or leases of vehicles by any and all of **JUDGMENT DEBTOR’S** or Internet Media Solutions’ customers.

## REQUESTS FOR DOCUMENTS

1. All bank statements, canceled checks, checkbooks, checkbook stubs, and deposit receipts for all accounts held in the name of Internet Media Solutions for the five (5) years immediately preceding this request.
2. All bank statements, canceled checks, checkbooks, checkbook stubs, and deposit receipts for all accounts held in **JUDGMENT DEBTOR** or **JUDGMENT DEBTOR'S** spouse's name for the five (5) years immediately preceding this request.
3. All statements for retirement accounts of whatever kind held in the name of Internet Media Solutions for the five (5) years immediately preceding this request.
4. All statements for retirement accounts of whatever kind held in the name of **JUDGMENT DEBTOR** or **JUDGMENT DEBTOR'S** spouse's name for the five (5) years immediately preceding this request.
5. All Federal and State income tax returns filed by Internet Media Solutions for the five (5) years immediately preceding this request.
6. All Federal and State income tax returns filed by **JUDGMENT DEBTOR** and/or **JUDGMENT DEBTOR'S** spouse for the five (5) years immediately preceding this request.
7. All **DOCUMENTS** and/or **COMPUTERIZED INFORMATION** evidencing all assets, including, but not limited, to vehicles, furniture, fixtures, equipment and inventory, held in the name of **JUDGMENT DEBTOR** and/or **JUDGMENT DEBTOR'S** spouse during the five (5) years immediately preceding this request.
8. All **DOCUMENTS** and/or **COMPUTERIZED INFORMATION** evidencing the current location of all assets, including, but not limited, to vehicles, furniture, fixtures, equipment and inventory, held in the name of

Internet Media Solutions for the five (5) years immediately preceding this request.

9. All **DOCUMENTS** and/or **COMPUTERIZED INFORMATION** evidencing the current location of all assets, including, but not limited, to vehicles, furniture, fixtures, equipment and inventory, that were used by Internet Media Solutions in the five (5) years immediately preceding this request.
10. Registration certificates for all vehicles registered in Internet Media Solutions's name, **JUDGMENT DEBTOR'S** name, or **JUDGMENT DEBTOR'S** spouse's name.
11. All agreements and bills of sales or transfers of real property by any partnership, corporation or LLC in which **JUDGMENT DEBTOR**, **JUDGMENT DEBTOR'S** spouse or Internet Media Solutions have or had an interest in during the five (5) years immediately preceding this request.
12. Any and all **DOCUMENTS** which evidence agreements concerning the transfer of real property to or from **JUDGMENT DEBTOR**, **JUDGMENT DEBTOR'S** spouse or Internet Media Solutions during the five (5) years immediately preceding this request.
13. All documents evidencing the consideration used to obtain any real property in which **JUDGMENT DEBTOR**, **JUDGMENT DEBTOR'S** spouse or Internet Media Solutions has an interest, including, but not limited to, notes, canceled checks, quit claim deeds during the five (5) years immediately preceding this request.
14. All records of patents, inventions, trade names, trademarks, or copyrights owned by Internet Media Solutions, or in which the **JUDGMENT DEBTOR** has an interest.
15. All lease agreements both in personal and real property in which the **JUDGMENT DEBTOR**, **JUDGMENT DEBTOR'S** spouse or Internet Media Solutions is obligated.

16. All savings and loan passbooks and certificates of deposit of Internet Media Solutions in savings and loan associations, credit unions, postal unions, mutual thrift associations, and mutual savings associations.
17. All savings and loan passbooks and certificates of deposit of **JUDGMENT DEBTOR** or **JUDGMENT DEBTOR'S** spouse in savings and loan associations, credit unions, postal unions, mutual thrift associations, and mutual savings associations.
18. All security contracts and financing statements on property in which **JUDGMENT DEBTOR, JUDGMENT DEBTOR'S** spouse or Internet Media Solutions still has an interest or in which the **JUDGMENT DEBTOR** or Internet Media Solutions had an interest during the five (5) years immediately preceding this request.
19. Evidence of all investments, limited partnerships, joint ventures or other entities in which **JUDGMENT DEBTOR, JUDGMENT DEBTOR'S** spouse or Internet Media Solutions had or has an interest in the five (5) years immediately preceding this request, including, but not limited to any and all foreign and domestic investments.
20. All of Internet Media Solutions' payroll records for the five (5) years immediately preceding this request.